

1 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON
2 AT TACOMA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 BRANDON D. JENKINS,

Defendant.

Case No. CR20-5373 BHS
DETENTION ORDER

7 THE COURT, having conducted a detention hearing pursuant to 18 U.S.C.

8 Section 3142, finds that no condition or combination of conditions which defendant can
9 meet will reasonably assure the safety of any other person and the community; and the
10 defendant is likely to fail to appear for court proceedings. The defendant is charged with
11 Possession with Intent to Distribute Controlled Substances – methamphetamine, 50
12 grams or more; and heroin, 100 grams or more -- under 21 U.S.C. Sections 812,
13 841(a)(1) and 841(b)(1)(B) and Title 18 U.S.C. §2. Indictment, Dkt. 1.

14 The government filed a motion for detention, noting that a presumption of
15 detention applies: 18 U.S.C. § 3142(e)(3), Potential maximum sentence of 10+ years as
16 prescribed in the Controlled Substances Act (21 U.S.C. Sect. 801 et seq.). Dkt. 11.

17 The Court considered the documents in the record, the information presented by
18 counsel and by U.S. Pretrial Services Officer Halvorson, and the arguments presented
19 at the hearing. During the hearing, the defense proposed that Mr. Jenkins' residence
20 would be in a home owned by his girlfriend's grandmother. He would live there with his
21 girlfriend, her 6-year-old and 10-year-old daughters, his girlfriend's grandmother (who
22 would also serve as third party custodian), and his girlfriend's grandfather, in Aberdeen,
23 Washington. See Dkt. 5, Pretrial Services Report at 2. Pretrial Officer Halvorson stated
24 during the hearing that the defendant's girlfriend, Ms. Olson, has a history of drug use
with the defendant.

The Court finds: The government met its burden of proving by a preponderance

1 of the evidence that the defendant presents a significant risk of failure to appear. The
2 government also met its burden of proving by clear and convincing evidence that the
3 defendant presents a significant risk of danger to others and to the community, and
4 there are no condition or combination of conditions which defendant can meet that will
5 reasonably assure the safety of any other person and the community, or the appearance
6 of the defendant.

7 The Court determined, based on the defendant's history of repeated criminal
8 conduct concerning assault, domestic violence, weapons, and controlled substances
9 (domestic violence conviction in 2014 and a pending charge of domestic violence
10 assault in 2020; assault convictions in 2013, 2014, and 2018; controlled substances
11 conviction in 2014; unlawful weapons conviction in 2014) that Mr. Jenkins has engaged
12 in violent assaults, domestic violence, and has failed to follow conditions of court-
13 ordered supervision -- before trial, and post-conviction. Even with conditions by which
14 the defendant's whereabouts could potentially be monitored, the Court finds that there
15 are no conditions of release that would effectively mitigate Mr. Jenkin's potential
16 destructive behavior; and his criminal record shows that he has not demonstrated law
17 abiding behavior in the community. His threat to the community continues and the
18 record shows his behavior cannot be successfully controlled, even considering his ties
19 to the community and the proposed residence for pretrial release.

20 He was incarcerated on violations of the conditions supervised release from
21 Washington State Department of Corrections, and was released from DOC on the
22 federal detainer concerning the offense alleged in the current federal Indictment, Dkt. 5
23 at 4. In addition, he has failed to appear on numerous occasions for proceedings in
24 state court. Dkt. 5, Pretrial Services Report, at 3-4. Mr. Jenkins is likely a danger to the
community and the proposed residential placement (including the defendant's proposal
that there may be a possibility of a placement – temporarily – in a residential re-entry

center) would not ensure his compliance with conditions of release. Nor would it reasonably ensure that he would appear for this Court's proceedings, regardless of the availability of GPS monitoring and other means of intensive supervision. Mr. Jenkins has substantial ties to the community – he has lived in Washington State for many years and has friends who are willing to support him and provide housing, yet the proposed placement does not appear to be stable or reliable in terms of regulating his ability to control his behavior at this time.

The Court weighed the defendant's evidence showing that he has friends who care about him and support him. Yet the Court finds that Mr. Jenkins has not overcome the presumption of detention that applies in this case.

This finding is based on:

- 1) the nature and circumstances of the offense(s) charged,
- 2) the weight of the evidence against the person;
- 3) the history and characteristics of the person;
- 4) criminal history;
- 5) history of failure to appear and follow court orders concerning conditions of supervision; and
- 6) the nature and seriousness of the danger release would impose to any person or the community. includes repeated violent assaults; domestic violence; and unlawful possession and intent to distribute controlled substances.

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6 *Order of Detention*

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9 ▶ The defendant shall be committed to the custody of the Attorney General for
10 confinement in a corrections facility separate, to the extent practicable, from
11 persons awaiting or serving sentences or being held in custody pending appeal.
12 ▶ The defendant shall be afforded reasonable opportunity for private consultation
13 with counsel.
14 ▶ The defendant shall on order of a court of the United States or on request of an
15 attorney for the Government, be delivered to a United States Marshal for the
16 purpose of an appearance in connection with a court proceeding.

17 Dated this 11th day of September 2020.

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20 Theresa L. Fricke
21 United States Magistrate Judge

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